

## 46 Am. Jur. 2d Judges § 59

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### Judges

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### VII. Compensation; Benefits; Allowances for Expenses

#### B. Changes in Compensation

## § 59. Retirement benefits of judges

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(11)

In some jurisdictions, a reduction in retirement benefits for judges violates a legislature's constitutional obligation to provide judges an adequate amount of compensation.<sup>1</sup> In other jurisdictions, changes in judges' retirement benefits have been held violative of state constitutional provisions prohibiting changes of compensation during a judge's term of office.<sup>2</sup> Since public employees generally have contractual or vested rights in a public pension, where such pension is part of the terms of employment,<sup>3</sup> an enforceable contract arises upon completion of service by a judge, in accordance with the terms of an offer, established by law, to pay a portion of the judge's salary, for the balance of the judge's life upon voluntary retirement, after reaching a specified age.<sup>4</sup> In some jurisdictions, if they assume no additional duties after retirement,<sup>5</sup> retired members of the judiciary do not subject their pension contracts to subsequent legislation,<sup>6</sup> or amendments or modifications which impair contractual obligations due them or impact detrimentally upon their retirement benefits,<sup>7</sup> whether or not their pensions have vested.<sup>8</sup> A judge who assumes another term of office, after retirement, fully aware of new legislation passed in the interim and its applicability to public employees in the party's position, becomes subject to its terms and conditions and those terms and conditions are incorporated into the renewed pension contract.<sup>9</sup> Judicial retirement statutes which provided for the forfeiture of vested retirement benefits if a judge ran for, was elected to, and served in a new term of office after reaching the age of 70 did not violate equal protection, based on the judges' assertion that judges who served longer terms received greater benefits than those who served less time on the bench; it was not irrational for the State to base retirement benefits on length of judicial service.<sup>10</sup>

Judges who retire prior to changes in a state's judicial pension plan are not entitled to the benefits that the changes in the law make.<sup>11</sup>

Footnotes

- 1 § 52.
- 2 *Goodheart v. Thornburgh*, 118 Pa. Commw. 75, 545 A.2d 399 (1988), order *aff'd*, 521 Pa. 316, 555 A.2d 1210 (1989), on reconsideration, 523 Pa. 188, 565 A.2d 757 (1989).  
As to entitlement to retirement benefits, generally, see § 55.
- 3 Am. Jur. 2d, Pensions and Retirement Funds § 1081.
- 4 *Sylvestre v. State*, 298 Minn. 142, 214 N.W.2d 658 (1973).
- 5 *Shiomos v. Com.*, State Employees' Retirement Bd., 533 Pa. 588, 626 A.2d 158 (1993).
- 6 *Shiomos v. Com.*, State Employees' Retirement Bd., 533 Pa. 588, 626 A.2d 158 (1993).
- 7 *White v. Com.*, State Employees' Retirement System, 129 Pa. Commw. 335, 565 A.2d 839 (1989).
- 8 *Shiomos v. Com.*, State Employees' Retirement Bd., 533 Pa. 588, 626 A.2d 158 (1993).
- 9 *Shiomos v. Com.*, State Employees' Retirement Bd., 533 Pa. 588, 626 A.2d 158 (1993).
- 10 *Landers v. Stone*, 2016 Ark. 272, 496 S.W.3d 370 (2016).
- 11 *Connolly v. Division of Public Employee Retirement Admin.*, 415 Mass. 800, 616 N.E.2d 59 (1993).

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